

### **REMARKS**

This responds to the Office Action mailed on October 23, 2006.

Claims 1, 8, 15, 19, and 22 are amended; as a result, claims 1-25 are presently pending in this application.

#### **§102 Rejection of the Claims**

Claims 1-25 were rejected under 35 USC § 102(e) as being anticipated by Kuzemchak (U.S. 2003/0088855 A1). It is of course fundamental that in order to sustain an anticipation rejection that each and every step or element in the rejected claims must be taught or suggested in the cited reference.

More specifically, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently in a single reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 1051, 1053 (Fed. Cir. 1987). Additionally, “[t]he identical invention must be shown in as complete detail as contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claims.

Applicants would like to respectfully reiterate that anticipation is only proper if “[t]he identical invention must be shown in as complete detail as contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989).

The first thing that Applicants would like to point out is that Kuzemchak is directed to compiling a source version of software and comparing its execution in a target Instruction Set Architecture (ISA) to an existing ISA for an existing executable version of that software on and existing ISA. There are two separate programs being executed and traced throughout the disclosure of Kuzemchak. *Emphasis added*. Moreover, nowhere in the Kuzemchak does it discuss processing one version of a single piece of software in both simulator and emulator modes. *Emphasis added*. The Examiner’s attention is directed to paragraphs 6, 23, 24, 26, *etc.* In each instance, the user selects either a simulator or an emulator. *Emphasis added*. Furthermore, in each case the entire software version is executed in the selected simulator or emulator, there is no ability to switch as the Examiner suggests being the case. The entire discussion of FIG. 6 is related to a user making initial choices about the execution of the two

software versions. Both are either executed in a simulator or both are either executed in an emulator and both complete processing and are compared. In fact, it would defeat the very purpose of Kuzemchak to permit one version of the software to process in a simulator and the other to process in an emulator because the output trace data and execution statistics would not be the same and as a result Kuzemchak would always get false hits saying the source is different than the target ISA execution, which is likely not the case in every situation and which would in fact be the case if Kuzemchak processed one version in a simulator and one in an emulator and then tried to do its compare.

Fundamentally, Kuzemchak is not about debugging a single piece of software in both an emulator and a simulator and permitting dynamic transition during a debugging session between the two. Kuzemchak is in fact clearly about executing two versions of software associated with different ISA's in either a simulator or an emulator, but not both and then completely processing the versions and comparing outputs for differences. Kuzemchak even states in paragraph 24 that the "fact that the application is being executed on a simulator or an emulator is irrelevant to the operation of the present invention." It then states a simulator is assumed for the remainder of the disclosure. The point is, initially, a user makes a choice to completely process the two versions in either a simulator or an emulator, but the user has no interface to interactively switch between a simulator and emulator for a single executing version while the execution is occurring. There is no teaching or ability at all for this to occur in Kuzemchak. Consequently, the Kuzemchak is fundamentally different than Applicants' invention.

Anticipation requires the identical invention in the identical arrangement. This can clearly not be said based on the amended claims and the clear teachings of Kuzemchak. Thus, Applicants respectfully request that the rejections with respect to Kuzemchak be withdrawn and the claims allowed.

### Conclusion


Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney ((513) 942-0224) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

PERAMACHANAHALLI S. RAMKUMAR ET AL.

By their Representatives,  
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, Minnesota 55402  
(513) 942-0224

By /  /  
Joseph P. Mehrle  
Reg. No. 45,535